

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

KENNETH DURBIN,)	CASE NO. 5:16 CV 492
)	
Plaintiff,)	JUDGE JOHN R. ADAMS
)	
v.)	
)	<u>ORDER</u>
JOHN ALEXANDER, JR., et al.,)	
)	
Defendants.)	

Pending before the Court is Plaintiff Kenneth Durbin's motion for reconsideration. Doc. 6. In his motion, Durbin requests that this Court reconsider dismissal of his action based upon lack of subject matter jurisdiction. The motion is DENIED.

Durbin first urges that since he utilized a form provide by the Clerk of Courts, this Court should construe his complaint to state a viable federal claim. The underlying facts in Durbin's complaint, however, fail to establish jurisdiction before this Court as they solely alleged legal malpractice and/or fee dispute issues without any allegation of diversity.

Durbin also asserts that this Court should not have sua sponte dismissed his complaint. In so doing, Durbin ignores that the Prison Litigation Reform Act applies to his complaint and expressly permits such a dismissal.

Finally, Durbin's after-the-fact attempts to demonstrate jurisdiction fall short. The fact that the fee dispute may have arisen from representation in federal court does not cause such a claim to fall within this Court's jurisdiction. Moreover, while Durbin seems to assert that this Court should construe his claim as a Section 1983 action, he has not sued any state actor, so such a claim could not be maintained. Accordingly, nothing in Durbin's motion has altered the

Court's prior finding that it lacks jurisdiction over the complaint. The motion is DENIED.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Date: June 1, 2016

/s/ John R. Adams
JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE